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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

VINCENT CLARDY,

Defendant and Appellant.

B206861

(Los Angeles County  
Super. Ct No. ZM010814)

APPEAL from an order of the Superior Court of Los Angeles County,  
Clifford L. Klein, Judge. Dismissed.

Rudy Kraft, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant  
Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General,  
Steven D. Matthews and Herbert S. Tetef, Deputy Attorneys General, for Plaintiff  
and Respondent.

Vincent Clardy appeals from an order extending his state hospital commitment as a mentally disordered offender.

On October 2, 2007, the district attorney filed in superior court a petition for involuntary treatment. It was alleged, inter alia, that appellant had previously been committed as severely mentally disordered after having been found guilty of the crime of assault with a deadly weapon and that the commitment was to expire on January 16, 2008.

Following trial, the court found that appellant, by reason of his severe mental disorder, could not be kept in remission if his treatment was not continued, and that by reason of his severe mental disorder represented a substantial danger of physical harm to others. His maximum term of commitment was extended to January 16, 2009, and he was ordered to remain as placed at Atascadero State Hospital.

After review of the record, appellant's court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On August 11, 2008, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider.

On September 29, 2008, we denied respondent's motion to dismiss the appeal.

To this date, we have received no response from appellant. Upon further reconsideration, we conclude pursuant to *People v. Taylor* (2008) 160 Cal.App.4th 304, 312, and *Conservatorship of Ben C.* (2007) 40 Cal.4th 529, 544, that the *Anders/Wende*<sup>1</sup> review procedures do not apply to this postconviction commitment under the Mentally Disordered Offender Act (MDOA)<sup>2</sup> and the appeal must be dismissed.

In *Taylor*, Division 6 of this court concluded that the *Anders/Wende* review procedures did not apply in that they were required only for “‘appointed appellate counsel’s representation of an indigent *criminal* defendant in his first appeal as of right.’

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<sup>1</sup> *Anders v. California* (1967) 386 U.S. 738.

<sup>2</sup> Penal Code section 2960 et seq.

[Citation.]” (*People v. Taylor, supra*, 160 Cal.App.4th at p. 312.) The court observed that pursuant to Penal Code section 2972, subdivision (a), MDOA proceedings were expressly defined as civil in nature. The court also observed that our Supreme Court had identified the MDOA as a civil commitment scheme. The appellate court concluded it was bound by that characterization. (*Ibid.*)

In *Conservatorship of Ben C., supra*, 40 Cal.4th 529 our Supreme Court offered guidance for the Courts of Appeal if appointed counsel in a conservatorship appeal under the Lanterman-Petris-Short Act (Welf. & Inst. Code § 5000 et seq.) found no arguable issues. In relevant part it stated, “[c]ounsel should (1) inform the court he or she has found no arguable issues to be pursued on appeal; and (2) file a brief setting out the applicable facts and the law. [Fn. omitted.] Such a brief will provide an adequate basis for the court to dismiss the appeal on its own motion. [Fn. omitted.] Dismissal of an appeal raising no arguable issues is not inconsistent with article VI, section 14 of the California Constitution requiring that decisions determining causes ‘be in writing with reasons stated.’ [Fn. omitted.] Nothing is served by requiring a written opinion when the court does not actually decide any contested issues.” (*Conservatorship of Ben C., supra*, 40 Cal.4th 529, 544.)

## **DISPOSITION**

The appeal is dismissed.

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EPSTEIN, Acting P. J.

We concur:

WILLHITE, J.

SUZUKAWA, J.